

HOUSE No. 2023

By Mr. Honan of Boston, petition of Thomas M. Menino and others for legislation to authorize the installation of photomonitoring traffic safety devices on certain roadways in the cities of Boston and Cambridge. Transportation.

The Commonwealth of Massachusetts

PETITION OF:

Thomas M. Menino
Jarrett T. Barrios

Timothy J. Toomey, Jr.

In the Year Two Thousand and Five.

AN ACT PERMITTING THE USE OF TRAFFIC CONTROL SIGNAL VIOLATION MONITORING SYSTEM DEVICES AS A MEANS OF PROMOTING TRAFFIC SAFETY IN THE CITIES OF BOSTON AND CAMBRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) Notwithstanding the provisions of any general
2 or special law to the contrary, the City of Boston and the City of
3 Cambridge may, upon the acceptance of this act, employ a traffic
4 control signal violation monitoring system along any portion of
5 any ways within its control and may promulgate local measures
6 imposing a penalty on the owner of a motor vehicle for failure by
7 the operator thereof to comply with the laws, codes, regulations,
8 ordinances, rules and/or other forms of legislation governing the
9 traffic control signals in said cities at which a traffic control signal
10 violation monitoring system is located.

11 (a) As used in this act, the following words shall, unless the
12 content clearly indicates otherwise, have the following meanings:
13 “Local measure”, shall mean the ordinances, rules and regulations
14 adopted by the City of Boston or the City of Cambridge,
15 whichever is applicable, establishing a schedule of fines imposed
16 on the owner of a motor vehicle for failure by the operator thereof
17 to comply with the laws, codes, regulations, ordinances, rules
18 and/or other forms of legislation governing the traffic control sig-

19 nals in said cities at which a traffic control signal violation moni-
20 toring system is located; “Motor vehicle”, shall have the meaning
21 provided in section 1 of chapter 90 of the General Laws; “Oper-
22 ator”, shall have the meaning provided in section 1 of chapter 90
23 of the General Laws; “Owner”, shall have the meaning provided
24 in section 1 of chapter 90 of the General Laws; “Traffic control
25 signal violation monitoring system”, shall mean an automated
26 motor vehicle sensor device installed to work in conjunction with
27 a traffic control signal which produces two or more wet-film pho-
28 tographs, two or more digital photographs, two or more micropho-
29 tographs, streaming video images, or other recorded images of
30 each motor vehicle at the time it is used or operated in a manner
31 that is in violation of the traffic control signal at which the auto-
32 mated monitoring system is located. The photographs, micropho-
33 tographs, streaming video images, or other recorded images must,
34 at a minimum, record the rear of the motor vehicle, with at least
35 one of the images clearly recording the motor vehicle behind the
36 stop bar immediately prior to the violation of the traffic control
37 signal, and at least one image recording the motor vehicle passing
38 through the intersection in violation of the traffic control signal.
39 Additionally, at least one of the images must clearly identify the
40 registration plate of the motor vehicle; “Violation”, shall mean the
41 failure of an operator of a motor vehicle to comply with the laws,
42 codes, regulations, ordinances, rules and/or other forms of legisla-
43 tion governing the traffic control signals at which a traffic control
44 signal violation monitoring system is located.

45 (b) No traffic control signal violation monitoring system shall
46 be utilized in such a manner as to take a frontal view photograph
47 of the motor vehicle that is in violation of the traffic control
48 signal.

49 (c) A certificate, or a facsimile thereof, based upon inspection
50 of photographs, microphotograph, streaming video, or other
51 recorded images produced by a traffic control signal violation
52 monitoring system, and sworn to or affirmed by a police officer
53 authorized to issue citations for violations of traffic signals at the
54 subject intersection, shall be prima facie evidence of the facts con-
55 tained therein. No photographs, microphotographs, streaming
56 video, or other recorded images taken in conformance with this
57 act shall be discoverable in any judicial or administrative pro-

58 ceeding other than a proceeding held pursuant to this act; and no
59 photographs, microphotographs, streaming video, or other
60 recorded images taken in conformance with this act shall be
61 admissible in any judicial or administrative proceeding other than
62 in a proceeding to adjudicate liability for such violation of this
63 act.

64 (d) For each violation pursuant to this act, the owner or owners
65 of a vehicle shall be liable for the penalty imposed by a local mea-
66 sure; provided, however, that no owner of a vehicle shall be liable
67 for a penalty imposed pursuant to this act where the operator of
68 such vehicle has been convicted of the underlying violation pur-
69 suant to a citation issued in accordance with section 2 of
70 chapter 90C of the General Laws, and provided, further, that the
71 maximum penalty that may be imposed pursuant this act shall be
72 One Hundred Dollars (\$100.00) for each violation.

73 (e) A penalty imposed by a local measure may, if so provided in
74 the local measure, be increased by up to 33 1/3% if said fine
75 remains unpaid in excess of 30 days after a notice of violation has
76 been issued consistent with the procedures established in section
77 20A½ of chapter 90 of the General Laws.

78 (f) A penalty imposed by a local measure for a violation pur-
79 suant to this act shall not be deemed a criminal conviction and
80 shall not be made part of the operating record of the person upon
81 whom such liability is imposed, nor shall such imposition of a
82 penalty be subject to merit rating for insurance purposes and no
83 surcharge points shall be imposed in the provision of motor
84 vehicle insurance coverage.

1 SECTION 2. (a) The compensation paid to the manufacturer or
2 vendor of the traffic control signal monitoring system deployed as
3 a means of promoting traffic safety as authorized herein shall not
4 be based upon the number of traffic citations issued or any portion
5 or percentage of the fine generated by such citations. The compen-
6 sation paid to such manufacturer or vendor of the equipment shall
7 be based upon the value of such equipment and the services pro-
8 vided or rendered in support of the traffic control signal moni-
9 toring system.

10 (b) Other than for purposes of enforcement of a violation of this
11 act or for purposes of an owner defending a violation of this act,

12 no private entity or individual may obtain photographs, micropho-
13 tographs, streaming video or other recorded images or records
14 taken pursuant to this act.

1 SECTION 3. (a) The parking clerk designated or appointed by
2 the city shall supervise and coordinate the administration of viola-
3 tions issued pursuant to Section 1. The parking clerk shall have
4 the authority to hire and designate such personnel as may be nec-
5 essary or contract for such services to implement the provisions of
6 this section.

7 (b) It shall be the duty of the parking clerk of the city
8 employing its traffic control signal violation monitoring system to
9 deliver the notice of violation to the registered owner or owners of
10 any motor vehicle identified in any photographs, micropho-
11 tographs, streaming video or other recorded images produced by
12 such device as evidence of a violation pursuant to this act. Such
13 notice shall contain but not be limited to the following informa-
14 tion: a copy of the aforementioned recorded images showing the
15 vehicle in violation of the traffic signal, the registration number
16 and state of issuance of said registration number of the vehicle;
17 the date, time and intersection location of the violation; the spe-
18 cific violation charged; a schedule of fines for such violation as
19 established by the city or town; instructions for the return of the
20 notice; and text as follows: "This notice may be returned person-
21 ally, by mail, or by an agent authorized in writing. A hearing may
22 be obtained upon the written request of the registered owner in
23 writing. Failure to obey this notice within 30 days of issuance of
24 this notice will result in the non-renewal or suspension of the
25 license to drive and the certificate of registration of the registered
26 owner."

27 (c) In the case of a violation involving a motor vehicle regis-
28 tered under the laws of the Commonwealth, such notice of viola-
29 tion shall be mailed within 14 days of the violation, exclusive of
30 Sundays and holidays, to the address of the registered owner or
31 owners as listed in the records of the registrar of motor vehicles.
32 In the case of any motor vehicle registered under the laws of
33 another state or country, such notice of violation shall be mailed
34 within 21 days of the violation, exclusive of Sundays and holi-
35 days, to the address of the registered owner or owners as listed in

36 the records of the official in such state or country having charge of
37 the registration of such motor vehicle. If said address is unavail-
38 able, it shall be sufficient for the parking clerk to mail notice of
39 violation to the official in such state or country having charge of
40 the registration of such motor vehicle.

41 (d) Notice of violation shall be sent by first class mail in accor-
42 dance with subsection (c) and shall include an affidavit form
43 approved by the parking clerk for the purpose of complying with
44 subsection (g). A manual or automatic record of mailing prepared
45 by the parking clerk in the ordinary course of business shall be
46 prima facie evidence thereof, and shall be admitted as evidence in
47 any judicial or administrative proceeding, as to the facts contained
48 therein.

49 (e) Any motor vehicle owner to whom notice of violation has
50 been issued pursuant to this act may admit responsibility for such
51 violation and pay the fine provided therein. Payment shall be
52 made either personally or through a duly authorized agent, or by
53 appearing before the parking clerk during normal office hours, or
54 by mailing both payment and notice of the violation to the parking
55 clerk. Payment by mail shall be made only by money order, credit
56 card or check made out to the parking clerk. Payment of the estab-
57 lished fine and any applicable penalties shall operate as a final
58 disposition of the case. Payment of the fine by one motor vehicle
59 owner shall be satisfaction of the fine as to all other motor vehicle
60 owners of the same motor vehicle for the same violation.

61 (f) Any owner to whom a notice of violation has been issued
62 may, within 30 days of the mailing of said notice by the parking
63 clerk, request a hearing to contest the liability alleged in said
64 notice. A hearing request shall be made either personally or
65 through a duly authorized agent by appearing before the parking
66 clerk during regular business hours or by mailing a request in
67 writing to the parking clerk. Upon receipt of a hearing request, the
68 parking clerk shall forthwith schedule the matter before a person
69 hereafter referred to as a hearing officer, said hearing officer to be
70 the parking clerk of the city wherein the violation occurred or
71 such other person or persons as the parking clerk may designate.
72 Written notice of the date, time and place of said hearing shall be
73 sent by first class mail to each registered owner. Said hearing shall
74 be informal, the rules of evidence shall not apply, and the decision

75 of the hearing officer shall be final subject to judicial review as
76 outlined by section 14 of Chapter 30A of the General Laws.
77 Within twenty-one days of the hearing, the parking clerk or the
78 hearing officer should send by first class mail to the registered
79 owner or owners the decision of the hearing officer, including the
80 reasons for the outcome.

81 (h) Any owner to whom a notice of violation has been issued
82 shall not be liable for a violation under the provisions of this act
83 (1) if the violation was necessary to allow the passage of an emer-
84 gency vehicle; (2) if the violation was necessary in order to pro-
85 tect the property or person of another; (3) if the violation was
86 incurred while participating in a funeral procession; (4) if the vio-
87 lation was incurred during a period of time in which the motor
88 vehicle was reported to the police department of any state, city or
89 town as having been stolen and had not been recovered prior to
90 the time the violation occurred; (5) if the operator of the motor
91 vehicle was operating the motor vehicle under a rental or lease
92 agreement and the owner of the motor vehicle is a rental or
93 leasing company and has complied with the provisions of section
94 20E of chapter 90 of the General Laws; (6) if the operator of the
95 motor vehicle was convicted of the underlying violation pursuant
96 to a citation issued in accordance with section 2 of chapter 90C of
97 the General Laws; or (7) if the violation was necessary to comply
98 with any other law or regulation governing the operation of a
99 motor vehicle at the intersection. An owner disputing a violation
100 under this section shall, within 30 days, provide the parking clerk
101 with a signed affidavit in a form approved by the parking clerk, as
102 provided for in subsection (d), stating (1) the reason for disputing
103 the violation; (2) the full legal name and address of the owner of
104 the motor vehicle; (3) the full legal name and address of the oper-
105 ator of the motor vehicle at the time the violation occurred; (4) the
106 names and addresses of all witnesses supporting the owner's
107 defense and the specifics of their knowledge; and where applic-
108 able (5) the signed statements from witnesses.

109 (i) If an owner to whom notice of violation has been issued
110 either fails to pay the fine provided for in said notice in accor-
111 dance with subsection (e), or fails to receive a favorable adjudica-
112 tion of said notice from a hearing officer in accordance with
113 subsection (f), the parking clerk shall notify the registrar of motor

114 vehicles who shall place the matter on record. Upon notification
115 to the registrar of two or more notices under this act and/or sec-
116 tions 20A and 20A½ of chapter 90 of the General Laws from the
117 parking clerk of either city or state authorities or agencies, the
118 registrar shall not issue or renew or may suspend such owner's
119 license to operate a motor vehicle or motor vehicle registration
120 until after notification from the parking clerk of each city, agency
121 or authority, from whom the registrar received notification, that all
122 fines, taxes and penalties owed by such owner pursuant to either
123 this section, or arising out of the parking or usage of such owner's
124 motor vehicles, have been disposed of in accordance with law.
125 Upon such notification to the registrar, an additional charge of \$20
126 payable to the registrar but collected by the city, and an additional
127 charge of \$20 payable to and collected by the city, shall be
128 assessed against the registered owner of said motor vehicle. It
129 shall be the duty of the parking clerk to notify the registrar forth-
130 with that such case has been so disposed; provided, however, that
131 certified receipt of full and final payment from the parking clerk
132 of the city or state agency or authority issuing such violation shall
133 also serve as legal notice to the registrar that said violation has
134 been disposed of in accordance with law. The certified receipt
135 shall be printed in such form as the registrar of motor vehicles
136 may approve.

137 (j) Upon the accumulation by an owner of five or more out-
138 standing notices under this act and/or sections 20A and 20A½ of
139 chapter 90 of the General Laws on account of violations of any
140 statute, ordinance, order, rule or regulation relating to the opera-
141 tion, control or parking of motor vehicles in a particular city,
142 notwithstanding any notification to the registrar, the parking clerk
143 of such city may notify the chief of police or director of traffic
144 and parking of such city that the vehicle bearing the registration to
145 which said notices have been issued shall be removed and stored
146 or otherwise immobilized by a mechanical device at the expense
147 of the registered owner of such vehicle until such time as all fines,
148 taxes and penalties owed by such owner pursuant to either this
149 section, or arising out of the parking or usage of such owner's
150 motor vehicle have been disposed of in accordance with law. No
151 vehicle shall be removed, stored, or otherwise immobilized until
152 and unless the owner of such motor vehicle shall have received 10

153 days notification by mail that such motor vehicle may be
154 removed, stored, or immobilized without further notification. It
155 shall be sufficient for the parking clerk to mail, postage prepaid,
156 said notification to the last known address of the registered owner.
157 It shall be sufficient for the parking clerk, in the case of a motor
158 vehicle registered in another state or country, to mail notification
159 to the official in such state or country having charge of the regis-
160 tration of such motor vehicle.

161 (k) Photographic and other recorded evidence obtained through
162 the use of automated enforcement devices deployed as a means of
163 promoting traffic safety authorized herein within the Cities of
164 Boston and Cambridge shall be destroyed within 1 year of final
165 disposition of any recorded event. Said cities shall file notice
166 annually with the Secretary of State that said records have been
167 destroyed in accordance with this section.

168 (l) The administrator of the traffic control signal monitoring
169 system within the Cities of Boston and Cambridge authorized
170 herein shall submit a report regarding the use and operation of the
171 traffic control signal monitoring system. Said report shall include
172 the results of using the automated enforcement devices and the
173 procedures for enforcement, as well as any enhancement of city-
174 wide traffic safety and enforcement programs. The administrators
175 shall submit said report, including any recommended legislation,
176 to the joint committee on public safety, the joint committee on the
177 judiciary and the senate and house committees on ways and means
178 on or before July 1, 2006.

1 SECTION 4. The provisions of this act shall be repealed as of
2 July 1, 2008.